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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,508	01/28/2004	J. Lamar Banks	8B12.1-011	3505

23506 7590 10/06/2004
GARDNER GROFF, P.C.
PAPER MILL VILLAGE, BUILDING 23
600 VILLAGE TRACE
SUITE 300
MARIETTA, GA 30067

EXAMINER

NGUYEN, TRINH T

ART UNIT PAPER NUMBER

3644

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,508

Applicant(s)

BANKS ET AL.

Examiner

Trinh T Nguyen

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCollough (US 933,384) in view of Atkinson (US 436,112).

McCollough discloses a portable deer and game feeder comprising: a tub-like feeder box (16); a support frame (10, 11, 12, 13, 14, 15, 16a, 16d, 31, 32) for supporting the feeder box, the support frame including a plurality of removable legs (31, 32) for supporting the feeder box above the ground; a plurality of removable roof support posts (19, 20, 21, A, 17, 25) for supporting the roof over the feeder box; and wherein the removable legs and the removable roof supports are sized and configured to be detached and stowed in the feeder box for transport.

McCollough discloses most of the claimed invention except for a roof extending over the feeder box and being large enough to overhang the edges of the feeder box.

Atkinson teaches a similar feeder as that of McCollough in which Atkinson's feeder having a roof member (D) extending over the feeding box and being large enough to overhang the edges of the feeder box. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the feeder of

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McCollough so as to include the use of a roof member thereon, in a similar manner as taught in Atkinson, in order to protect feeds (from rainwater) store within the feeder box.

For claim 2, McCollough as modified by Atkinson (emphasis on Atkinson) further discloses two panels hinged together such that with the roof panels extended in use the roof overhangs the feeder box and with the panels folded against one another the roof can be positioned atop feed box like a lid.

For claim 3, McCollough as modified by Atkinson (emphasis on McCollough), further discloses a feeder box comprises a one-piece, tub-like element.

For claim 4, McCollough as modified by Atkinson (emphasis on McCollough), further discloses a feeder box having a peripheral flange and a support framework mounted to the support legs for engaging the peripheral flange.

For claim 5, McCollough as modified by Atkinson discloses most of the claimed invention except for a molded plastic feeder box. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select such a material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Also, since applicant did not provide a reason and/or showing any criticality as to why the feeder box has to be molded plastic. It is believe that during the manufacturing process that one selects a known material on the basis of its suitability for the intended use to meet the design criteria.

For claim 7, McCollough as modified by Atkinson (emphasis on McCollough), further discloses a feed box frame for supporting the feed box, the feed box frame

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including a plurality of removable legs (31, 32), wherein the legs fit inside the feed box for storage when the legs are disassembled from the feed box frame.

For claim 8, McCollough as modified by Atkinson (emphasis on McCollough), further discloses roof supports each comprise at least one central segment (19), at least three top end segments (20, 21, A in Figure 4 as labeled in the attached Figure 4 with the Office Action) angled with respect to each other, and at least two bottom end segments (17, 25) angled with respect to each other, wherein at least one of the top end segments is detachably coupled to the central segment.

For claim 9, McCollough as modified by Atkinson (emphasis on McCollough), further discloses a feed box having a feed box body and a peripheral lip, and further comprising a feed box frame for supporting the feed box, the feed box frame having a peripheral member* for supporting the feed box peripheral lip, at least one rib member (16a) for supporting the feed box body, and a plurality of legs (31, 32) removably coupled to the peripheral member, wherein the feed box frame legs fit within the feed box when disassembled from the feed box frame.

For claim 10, McCollough as modified by Atkinson (emphasis on Atkinson) further discloses two panels hinged together and shaped and sized so that when the feeder is disassembled, the roof can be collapsed flat with the panels folded over onto each other and positioned over the feed box as a lid.

For claim 11, McCollough as modified by Atkinson (emphasis on Atkinson) further discloses one of the panels has a portion overlapping the other panel (see Figure 8 as labeled in the attached Figure 8 with the Office Action).

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For claim 12, McCollough as modified by Atkinson (emphasis on Atkinson) further discloses two half-roofs hinged together with each half-roof comprising at least two panels that can be folded against each other such that the entire roof can be folded up and stowed inside the feed box.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as cited on PTO-form 892.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T Nguyen whose telephone number is (703) 306-9082. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (703) 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trinh T Nguyen
Patent Ex.
Art Unit 3644

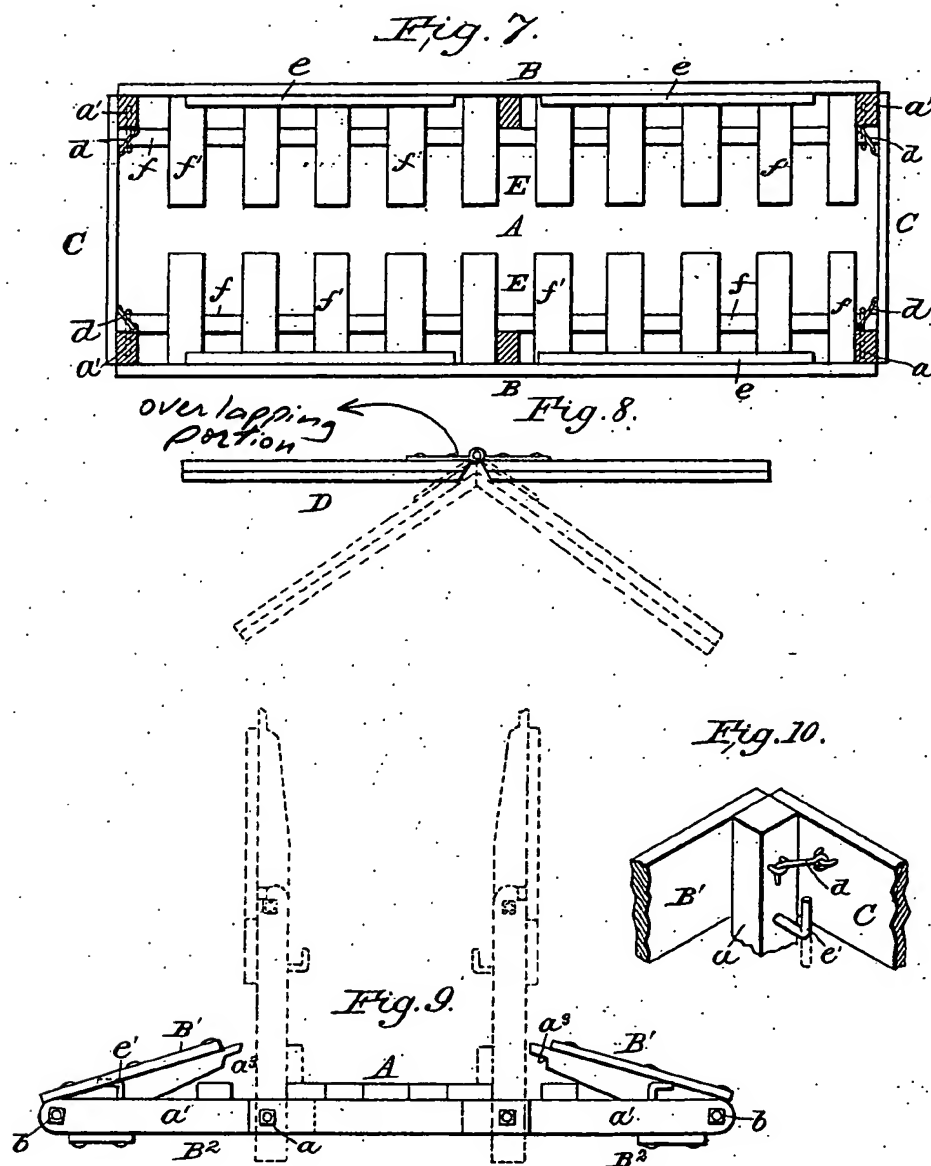
(No Model.)

3 Sheets—Sheet 3.

J. O. ATKINSON.
FOLDING FEED TROUGH OR RACK.

No. 436,112.

Patented Sept. 9, 1890.



Witnesses:
D. S. Graham
E. O. Weaver

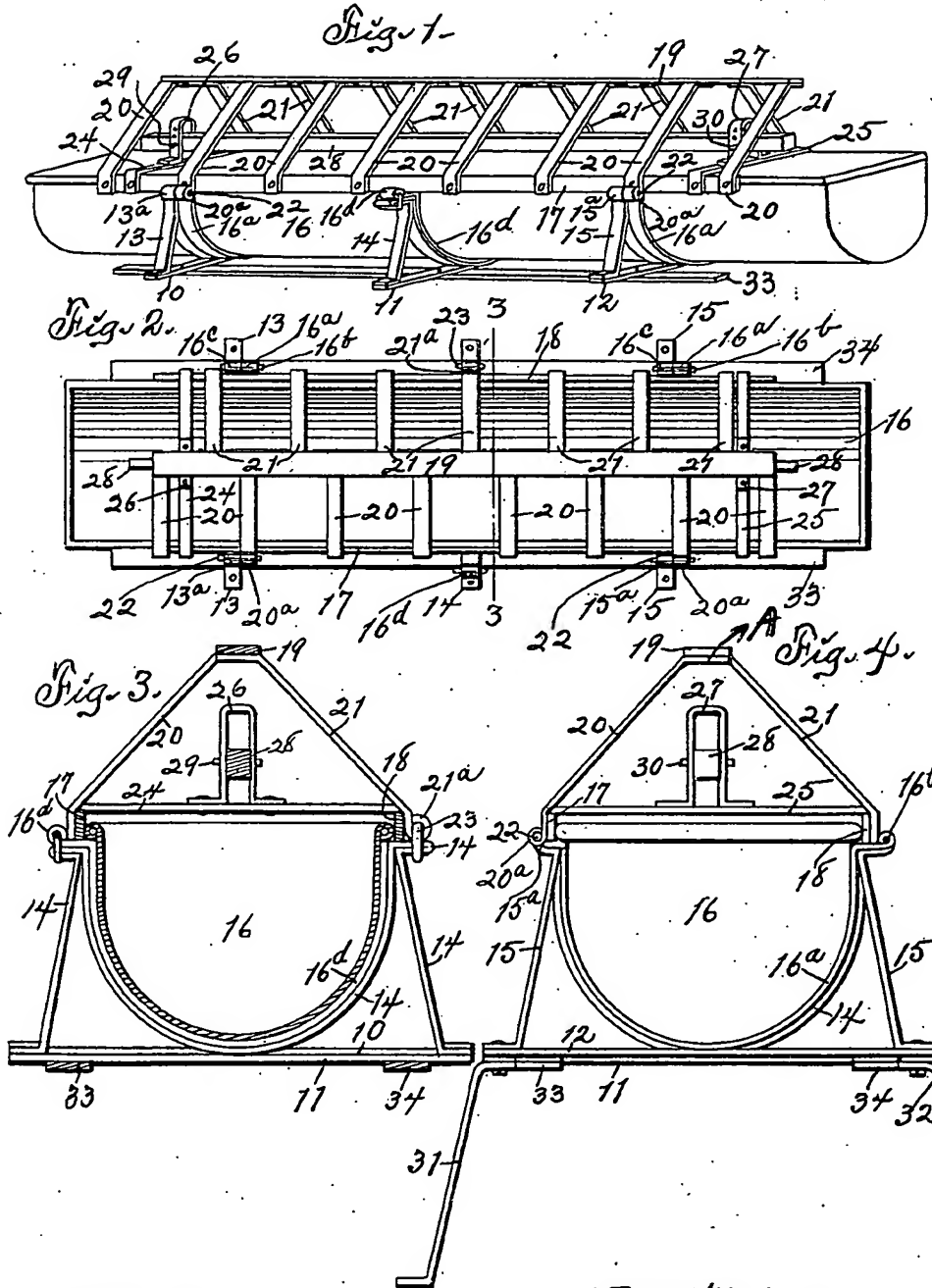
Inventor:
John O. Atkinson
[Signature]

THE SORBS PETERS CO., PHOTO-LITHO., WASHINGTON, D. C.

W. A. McCOLLOUGH.
BACK FOR FEEDING TROUGHS.
APPLICATION FILED OCT. 10, 1908.

933,384.

Patented Sept. 7, 1909.



Attest:
R. R. Reibrock.
C. L. Moore

Inventor:
William A. McCollough,
By J. H. Swarth Att'y